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Protection of and assistance to internally displaced persons*

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Representative of the Secretary-General on internally displaced persons, Francis Deng, in accordance with General Assembly resolution 56/164 of 19 December 2001 and Commission on Human Rights resolution 2003/51 of 23 April 2003.

* This document is submitted late so as to include the most up-to-date information possible.

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Report of the Special Representative of the Secretary-General on internally displaced persons

Summary

The year 2002 marked the tenth anniversary of the creation of the mandate of the Representative of the Secretary-General on internally displaced persons. In this report, the Representative thus reflects upon the achievements of the past 10 years and the challenges that still lie ahead. The report reviews the progress made in the four areas of work of the Representative — the "four pillars" — which include the normative framework; promoting effective institutional arrangements; dialogue with Governments through country missions; and the undertaking of research into new and emerging areas. Finally, the report outlines some of the challenges ahead.

Since the mandate of the Representative was created in 1992, significant progress has been made in the areas of norm-setting, institutional arrangements, and operational responses to the needs of the internally displaced. A great deal has been achieved with regard to the normative aspect of the work of the mandate through the development of the Guiding Principles on Internal Displacement. The Principles are now a widely accepted standard and a useful tool for addressing the protection and assistance needs of the internally displaced. The collaborative approach is also in place as the preferred institutional response to the global crisis of internal displacement. In addition, the Representative's country missions have succeeded in establishing a pattern of constructive dialogue with Governments and other pertinent actors on behalf of the internally displaced. Furthermore, a policy-oriented research agenda on various aspects of the displacement crisis has become well established through the Project on Internal Displacement of the Brookings Institution and the Johns Hopkins University School for Advanced International Studies (SAIS) and the recently founded SAIS Center for Displacement Studies.

Despite these achievements, the Representative concludes that there still remains a significant gap between the postulated standards, institutional structures and operational performance, on the one hand, and the still compelling needs of the displaced populations for protection and assistance, on the other hand. The challenge for the future may be a more precise assessment of the degree to which the international community has in fact succeeded or failed to respond to the global crisis of internal displacement, the gaps that exist in meeting the protection and assistance needs of the internally displaced, and what needs to be done to bridge that gap. This means that along with continuing to do what is being done and to improve upon it, there is need for a more thorough appraisal of the system and its operations to determine the extent to which it can be made to be more effective in providing a comprehensive system of protection and assistance to the internally displaced of the world.

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I. Introduction

1. The year 2002 marked the tenth anniversary of the creation of the mandate of the Representative of the Secretary-General on internally displaced persons. It also marked the twelfth year since the Secretary-General began to assign specific responsibilities within the United Nations system for the coordination of assistance and protection to internally displaced persons (IDPs). Looking back, a great deal has been achieved during this period. Most crucially, the global level of understanding of the problem and acceptance of the need to provide effective solutions to the plight of the internally displaced have increased significantly. Sovereignty is increasingly seen not as a barrier to addressing the issue of internal displacement, but as a positive source of responsibility of States to care for and protect their own populations. A normative framework, in the form of the Guiding Principles on Internal Displacement, has been developed and enjoys increasing use by Governments, regional and international organizations, non-governmental organizations (NGOs), civil society, and the internally displaced themselves. Moreover, structures have been put in place within the United Nations system to strengthen coordination and improve the response to situations of internal displacement. In academic and research institutions around the world issues relating to internal displacement are gaining the attention of scholars, teachers and intellectual advocates.

2. Nevertheless, the numbers of internally displaced persons (currently estimated at 25 million in some 50 countries) continue to rise unchecked and their most pressing needs — particularly in the area of protection — remain all too often unaddressed. In many situations, there remains a disturbing gap between expressed commitments to realize the rights of the internally displaced and actual national and international responses on the ground.

3. In light of the anniversary, and of the crossroads that lie ahead, this report will reflect upon the achievements of the past 10 years and the challenges that remain. The main part of the report reviews the progress made in the four areas of work of the Representative — the "four pillars" — which include the normative framework; promoting effective institutional arrangements; dialogue with Governments through country missions; and the undertaking of research into new and emerging areas. Finally, the report outlines the challenges ahead and reviews a number of suggestions made with regard to the future work and the role of the mandate.

II. The past ten years — developments and activities of the mandate

A. Development and promotion of a normative framework on internal displacement

1. The genesis of the Guiding Principles

4. When the mandate of the Representative was first created in 1992, the Commission on Human Rights requested that the Representative undertake "an examination of existing international human rights, humanitarian and refugee law and standards and their applicability to the protection of and relief assistance to displaced persons". In 1993, the Representative prepared a study reporting the

results of his consultations on this issue with States, international organizations, NGOs and academic institutions and recommending a detailed compilation and analysis of international legal standards relevant to the internally displaced (E/CN.4/1993/35). The Commission, in a resolution supported by the General Assembly, expressed appreciation of the Representative's report and recommendations, and renewed his mandate in order that he could continue this work.

5. The Representative subsequently convened a team of international legal experts and commenced preparation of a two-part compilation and analysis of international legal norms relevant to internally displaced persons. The first part, presented to the Commission in 1996 (E/CN.4/1996/52/Add.2), examined international law applicable to persons who had already been displaced. The second part, presented two years later (E/CN.4/1998/53/Add.1), examined international norms pertinent to the prevention of arbitrary displacement. Both studies concluded that while existing international law provided important protection in situations of internal displacement, there were numerous gaps or grey areas in its coverage of specific needs. The Representative recommended that these lacunae be addressed in a more comprehensive framework.

6. In response to these reports and recommendations, the Commission called on the Representative to "continue, on the basis of his compilation and analysis of legal norms, to develop an appropriate framework ... for the protection of internally displaced persons" (resolution 1996/52). With regard to the form that this framework should take, the Representative and the team of legal experts determined that what was required was not to create new law in the form of a new international legal instrument, but rather to restate existing international law which, while covering many aspects of relevance to internally displaced persons, was too dispersed and diffuse to be easily accessible and effectively applied and, because of the grey areas, in some cases needed to be clarified. Moreover, there was an urgent need, particularly in the field, for a clear and concise guiding statement of the various relevant norms for addressing the specific concerns arising in situations of internal displacement. Accordingly, the Representative and his team of experts opted to formulate a set of guiding principles restating existing human rights, humanitarian and (analogous) refugee law relevant to internally displaced persons in an easily comprehensible and practical format. The Commission and the General Assembly encouraged the Representative to proceed along those lines and, throughout the drafting process, were kept informed of the progress made. A broad range of regional and international bodies and experts from different countries were consulted in the process.

7. The Guiding Principles on Internal Displacement, which were presented to the Commission in 1998 (E/CN.4/1998/53/Add.2), consolidate the numerous norms relevant to addressing the specific protection, assistance and development needs of internally displaced persons. They set forth the rights and guarantees relevant to all phases of internal displacement, providing protection against arbitrary displacement, protection and assistance during displacement, and during return or resettlement and reintegration. The Principles provide guidance to all pertinent actors: the Representative in carrying out his mandate; States faced with the phenomenon of internal displacement; all other authorities, groups and persons in their relations with internally displaced persons, including non-State actors; intergovernmental and

non-governmental organizations; and, of course, internally displaced persons themselves.

2. Responses to the Guiding Principles

8. Soon after the Principles were finalized, the Inter-Agency Standing Committee (IASC), composed of the heads of the major international humanitarian and development agencies and organizations, adopted a decision welcoming the Guiding Principles and encouraging its members to share them with their executive boards and their staff, especially those in the field, and to apply them in their activities on behalf of internally displaced persons.

9. The following month, in resolution 1998/50, which was adopted without a vote and sponsored by 55 States, the Commission, recognizing that the protection of internally displaced persons would be strengthened by identifying, reaffirming and consolidating specific rights for their protection and noting the progress made by the Representative in developing a normative framework, in particular the compilation and analysis of legal norms and the Guiding Principles, took note of the Principles and noted with interest the IASC decision, as well as the Representative's declared intention to make use of the Principles in his dialogue with Governments, intergovernmental organizations and NGOs. The Commission also requested that the Representative report on his efforts in this regard and the views expressed to him, which he consistently has done since then in his reports to the Commission and to the General Assembly.

10. In subsequent years, both the Commission and the General Assembly, in resolutions adopted without a vote and co-sponsored by States from all regions of the world, have encouraged and welcomed the dissemination, promotion and application of the Guiding Principles, welcomed the Representative's use of them in his dialogues with Governments and intergovernmental and non-governmental organizations, and requested him to continue his efforts in that regard.

11. Most recently, at its fifty-ninth session, the Commission adopted resolution 2003/51 by consensus, in which it "[e]xpresse[d] its appreciation of the Guiding Principles on Internal Displacement as an important tool for dealing with situations of internal displacement, welcome[d] the fact that an increasing number of States, United Nations agencies and regional and non-governmental organizations are applying them as a standard, and encourage[d] all relevant actors to make use of the Guiding Principles when dealing with situations of internal displacement".

12. In his 1998 report to the Economic and Social Council on strengthening the coordination of emergency humanitarian assistance, the Secretary-General highlighted the development of the Guiding Principles as among the "notable examples" of achievements in the humanitarian field that year (A/53/139-E/1998/67, para. 10). In its agreed conclusions 1998/1, the Council made reference to the Guiding Principles, noting the IASC decision relating to them. In 1999, the Council in its agreed conclusions 1999/1 called upon all States to apply internationally recognized norms with regard to internally displaced persons and also took note that the IASC was using the Principles (para. 23). At the Council's substantive session of 2000, a number of States spoke in favour of the Principles, while some raised questions about the process by which they had been developed (see below); no agreed conclusions were adopted.

13. In his most recent report to the Council in 2003 on strengthening the coordination of emergency humanitarian assistance of the United Nations (E/2003/85-A/58/89), the Secretary-General recommended that the Council and the General Assembly "encourage Member States with internally displaced persons to develop national laws, policies and minimum standards on internal displacement consistent with international standards, including the Guiding Principles on Internal Displacement" (para. 58 (d)). The Council in its resolution 2003/5 subsequently noted "that an increasing number of States, United Nations organizations and regional and non-governmental organizations are making use of the Guiding Principles on Internal Displacement, encourage[d] the strengthening of legal frameworks for the protection of internally displaced persons and urge[d] the international community to strengthen its support to affected States in their efforts to provide, through national plans or initiatives, protection and assistance to their internally displaced persons".

14. Use of the Principles additionally has been acknowledged at the level of the Security Council. In 1999, the Council requested the Secretary-General to submit a report containing concrete recommendations on ways the Council could improve the physical and legal protection of civilians in armed conflict. The Secretary-General, in his subsequent report, recommended that in cases of internal displacement, the Council should encourage States to follow the legal guidance provided in the Guiding Principles (S/1999/957, recommendation 7). The following year, the Secretary-General reiterated this recommendation specifically with regard to children in armed conflict (A/55/163-S/2000/712, recommendation 21), and a number of States noted the importance of the Principles, especially as they relate to children (see S/PV.4176). In a statement of 13 January 2000, the President of the Security Council noted that United Nations agencies, regional organizations and NGOs, in cooperation with host countries, are making use of the Guiding Principles, inter alia, in Africa (S/PRST/2000/1). The same month, in its resolution 1286 (2000) on the situation in Burundi, the Council reiterated this view.

15. As mentioned earlier, in 1998, the IASC welcomed the Guiding Principles and encouraged its members to apply them in their activities on behalf of internally displaced persons. Since that time, United Nations and other international humanitarian and development organizations as well as human rights bodies have undertaken significant efforts to integrate the Principles into their work around the world. The initiatives in this regard taken by the various individual agencies and organizations, which have been highlighted in previous reports, have included: disseminating the Principles; incorporating them into organizational policy; training for staff as well as government officials and civil society; translation and publication of the Principles into local languages; using the Principles for monitoring and reporting on situations of internal displacement and for advocacy; and assisting Governments and other authorities in the development of national law and policy based on the Principles.

16. Within the United Nations human rights mechanisms, a number of the special procedures of the Commission on Human Rights, both country and thematic, as well as the human rights treaty bodies increasingly are focusing on internal displacement and integrating the Guiding Principles into their work. The High Commissioner has referred to the Principles in advocacy efforts and the Office of the High Commissioner for Human Rights (OHCHR) has supported the translation and publication of local language versions, developed training materials in collaboration

with the Norwegian Refugee Council (NRC) and IASC, and co-sponsored seminars on the Principles in collaboration with the Representative.

17. Special mention must be made of the NRC Global IDP Project, for which promotion of the use of the Guiding Principles is one of the primary objectives. The Project has been particularly active in monitoring and reporting on its database on conditions of internal displacement in light of the Principles and in delivering training on the Principles in countries around the world. Many other international NGOs are using the Principles as a monitoring and advocacy tool, including Amnesty International, HelpAge International, Human Rights Watch, Jesuit Refugee Services, Peace Brigades International, Refugees International, Save the Children, U.S. Committee for Refugees and the Women's Commission for Refugee Women and Children. Local NGOs in many different countries are also developing programmes for IDPs based on the Guiding Principles, as noted below.

3. Promotion, dissemination and application of the Guiding Principles

18. The Representative and his partners have made continued efforts to make the Guiding Principles available around the world. Through the combined efforts of United Nations agencies, the Brookings Institution-SAIS Project on Internal Displacement, NGOs and Governments, the Guiding Principles have been widely translated and disseminated. Initially made available in the official languages of the United Nations (Arabic, Chinese, English, French, Russian and Spanish), the Principles have since been translated into 26 additional languages: Abkhaz, Albanian, Armenian, Azerbaijani, Bahasa Indonesia, Burmese, Cebuano, Chin, Dari, Dinka, Georgian, Luo, Kirundi, Macedonian, Maguindanao Pashtu, Portuguese, Serbo-Croat, Sgaw Karen, Sinhala, Somali, Swahili, Tagalog, Tamil, Tetum and Turkish, for a total of 32 language versions in all. Several of these translations of the Principles have been published in pamphlet form and most are posted on the web site of OHCHR (www.ohchr.org) and of the Brookings-SAIS Project (http://www.brook.edu/dybdocroot/fp/projects/idp/idp). Moreover, to reach wider audiences, popularized versions of the Principles are being developed, such as a cartoon illustration of the Principles in Bahasa Indonesia, sponsored by international agencies and NGOs working in Indonesia.

19. To facilitate the practical application of the Principles, the Representative has supported the development of supplementary materials. In 1999, the Brookings Project and Office for the Coordination of Humanitarian Affairs (OCHA) published a *Handbook for Applying the Guiding Principles*, clarifying in accessible language the content of the Principles and spelling out ways of promoting their application. The Handbook has been translated into Albanian, Bahasa Indonesia, French, Macedonian, Portuguese, Russian and Spanish, and the Representative encourages translation into additional languages, in particular, all the official languages of the United Nations. Also in 1999, IASC developed a *Manual on Field Practice in Internal Displacement*, providing examples from around the world on initiatives undertaken by United Nations agencies and NGOs to address the protection, assistance and development needs and rights of internally displaced persons as provided for in the Principles. In 2000, the American Society of International Law and the Brookings Project published Professor Walter Kälin's *Annotations to the Guiding Principles on Internal Displacement*, describing the basis in international law for each of the 30 Principles. In 2002, the Brookings Project published a booklet

on *Recent Commentaries about the Nature and Application of the Guiding Principles on Internal Displacement*.

The national level

20. These efforts have borne fruit at the national level, where, most significantly, an increasing number of States are making use of the Guiding Principles in the development of national legislation and policy. In 2000, Angola became the first State to enact legislation expressly based on the Guiding Principles, in its "Norms on Resettlement". The following year, the Government of Burundi signed a "Protocol for the Creation of a Permanent Framework of Cooperation for the Protection of Displaced Persons", for which the promotion and application of the Principles is a key objective. In Colombia, the Constitutional Court has underlined the Principles' authority as a restatement of international law and cited them in two judgements, bolstered by a presidential directive issued in 2001. As of the time of this writing, the Peruvian legislature is considering a national law on internal displacement based in large part on the Guiding Principles — an initiative which the Representative has welcomed. Likewise, in Uganda, a national law on internal displacement, based on the Principles, currently is under consideration by the Government and is expected to be adopted shortly. Meanwhile, in Afghanistan, the Principles are being used as a reference for the drafting of a decree for the safe return of internally displaced persons. The reaffirmation of the rights of the internally displaced within a national legal framework is an important endeavour. A law upholding the rights of the internally displaced will serve not only to raise the visibility of the internally displaced, but can often serve as a tool for reconciliation following a conflict.

21. The Principles are also proving to be a stimulus for the reform of existing legislation. In 2001-2002, the Representative, the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE), the Brookings-SAIS Project on Internal Displacement and the Georgian Young Lawyers Association co-sponsored a review by local lawyers' groups of the extent to which national legislation in Armenia, Azerbaijan and Georgia corresponds with the Guiding Principles. In each country, meetings in which government officials, civil society and international agencies participated were held to discuss the findings and recommendations of the reviews, with important results in terms of national legislative reform. The legal reviews and seminar proceedings have been published in a book by the sponsors and the American Society of International Law in 2003, providing a model for possible replication in other parts of the world.[1]

22. In addition, Governments continue to demonstrate an interest in participating in training workshops on internal displacement and the Guiding Principles. The Global IDP Project, in collaboration with OHCHR, co-sponsored the first training workshop on the Guiding Principles in Uganda in 1999 and has been particularly active in providing training in the Principles to government officials, civil society and staff from international agencies and NGOs around the world. The IDP Unit created in OCHA in January 2002 is also responding to requests from Governments and other actors, including United Nations staff, for training on internal displacement.

23. For his part, the Representative continues, as requested by the Commission and the General Assembly, to initiate and support seminars on internal displacement and the Guiding Principles. His mandate has co-sponsored national seminars, at which government officials have participated together with representatives of United Nations agencies, international organizations, local and international NGOs and research institutions, in Colombia in 1999 (E/CN.4/2000/83/Add.2), in the South Caucasus covering Armenia, Azerbaijan and Georgia in 2000 (E/CN.4/2001/5/Add.2), and in Indonesia in 2001 (E/CN.4/2002/95/Add.3). In April 2002, a seminar on internal displacement in the Russian Federation was co-sponsored with the Institute of State and Law of the Russian Academy of Sciences and the Partnership on Migration. The Russian NGO, Memorial, subsequently decided to translate into Russian the annotations to the Principles with references to Russian law inserted into the text.

24. National human rights institutions constitute an important forum for the promotion of the Guiding Principles at the national level. The Asia-Pacific Forum of National Human Rights Institutions has expressed support for a greater role for these bodies with the internally displaced, and its members have discussed the relevance of the Principles to their work. This encouraged the Sri Lankan national human rights commission to begin to include internal displacement in its activities, as described in a recent report which should provide useful guidance to national human rights institutions in other countries.[2] For countries in the Commonwealth, assisting in the implementation of the Guiding Principles has been identified as a best practice for national human rights institutions.[3] In Mexico, the Representative met with members of the national as well as Chiapas and Guerrero state human rights commissions during his mission in August to discuss their role with regard to the internally displaced and the application of the Guiding Principles. During his mission to the Philippines in November 2002, the Representative delivered a lecture on the relevance of the Guiding Principles to the work of national human rights institutions and met with the Chairperson and members of the Philippine human rights commission, who expressed an interest in integrating the Principles into their work.

25. The Guiding Principles are also being acknowledged and used by non-State actors. During his mission to Georgia in 2000 (E/CN.4/2001/5/Add.4), the Representative engaged in constructive dialogue based on the Principles with the de facto authorities in South Ossetia and Abkhazia. Indeed, the de facto President of Abkhazia suggested that it would be useful to have the Principles translated into the Abkhaz language — an initiative which came to fruition in 2002. In the Sudan, the Sudan People's Liberation Movement and Army (SPLM/A) currently is considering a draft policy on internal displacement based on the Principles, which was drafted by SPLM/A representatives in September 2002 at a training workshop in Rumbek, sponsored by the OCHA IDP Unit with the assistance and participation of the office of the Representative. At a seminar on internal displacement in Southern Sudan, co-sponsored by the Representative, the United Nations Children's Fund (UNICEF) and the Brookings-SAIS Project in November 2002, SPLM/A officials presented their policy and reiterated their intention to submit it for ratification by the SPLM/A leadership in 2003. In the course of his mission to the Philippines in November 2002, the Representative met with representatives of the Moro Islamic Liberation Front and stressed the relevance of the Guiding Principles.

26. Additionally, the Guiding Principles have become an important education, monitoring and advocacy tool for local civil society. In Sri Lanka, the Consortium of Humanitarian Agencies, a group of more than 30 NGOs, has been conducting an outreach programme based on the Principles for government officials, non-State actors, international organizations, international and national NGOs and displaced communities. As part of these efforts, it has published a "Toolkit" on the Guiding Principles in English, Sinhala and Tamil, as well as a variety of other training materials for use in ongoing workshops and round tables. Similar efforts are under way in other countries around the world, for instance, in Georgia by the Georgian Young Lawyers Association and in the Philippines by the Ecumenical Commission for Displaced Families and Communities.

The regional level

27. The Commission and the General Assembly have welcomed the fact that an increasing number of regional organizations are making use of the Principles, in particular with regard to initiatives by the Organization of African Unity (OAU), now the African Union, the Economic Community of West African States (ECOWAS), the Organization of American States (OAS), OSCE and the Council of Europe, and encouraged them and other regional organizations to strengthen their activities and their cooperation with the Representative, including through seminars on internal displacement.

28. In 1998 the Representative co-sponsored with OAU a seminar on internal displacement in Africa, which recommended the wide dissemination of the Principles. The following year, the OAU Commission on Refugees and Displaced Persons, at the recommendation of Algeria, took note of the Principles "with interest and appreciation" and recommended to the OAU Council of Ministers that member States cooperate with the Representative in their implementation.

29. In April 2000 ministers of ECOWAS States adopted a declaration at the Conference on War-Affected Children in West Africa, which welcomed the Principles and called for their application by ECOWAS member States. This declaration was subsequently adopted at the ECOWAS Summit of Heads of State and Government in December 2000. In September 2002, the office of the Representative joined a seminar on migration in West Africa for ECOWAS member States, sponsored by ECOWAS and the International Organization for Migration (IOM) and held in Dakar. Among the recommendations emerging from the seminar was the development of national laws on internal displacement using the Guiding Principles as a framework.

30. In East Africa, the Horn and the Great Lakes region, Governments have, at a conference convened by the International Migration Policy Programme in collaboration with the African Union, reaffirmed their commitment to the Guiding Principles as a useful tool and standard for addressing situations of internal displacement.[4]

31. The Inter-American Commission on Human Rights of the OAS has welcomed and expressed its full support for the Principles, noting that they constitute "the most comprehensive restatement of norms applicable to the internally displaced" and accordingly provide "authoritative guidance on how law should be interpreted and applied during all phases of displacement".[5] Both the Commission and its Rapporteur on internally displaced persons regularly use the Principles as a

benchmark for evaluating conditions in different countries, such as Colombia and Guatemala.

32. In Europe, OSCE, after having disseminated the Principles to participating States and its field missions, has increasingly focused on their application. In September 2000, OSCE/ODIHR convened a meeting on migration and internal displacement, the principal aim of which was to elaborate ways in which OSCE institutions, field operations and participating States could enhance their response to internal displacement, in particular through the practical application of the Principles. At the OSCE Human Dimension Implementation meeting the following year, several States spoke in support of an enhanced role for OSCE with regard to internal displacement as well as the value of the Guiding Principles as a framework. The regional seminar on internal displacement in the South Caucasus, as well as the follow-up review of national legislation, which was co-sponsored by ODIHR/OSCE together with the Representative, provide examples of how OSCE is actively supporting the promotion and application of the Principles at the country level. This momentum continues, as evidenced by the July 2003 "Rotterdam Declaration" of the OSCE Parliamentary Assembly, in which the Assembly urged the OSCE Ministers to consider "the endorsement of the United Nations Guiding Principles on Internal Displacement or the adoption of key aspects of those Guiding Principles as OSCE commitments".

33. The Council of Europe has also become engaged with the issue of internal displacement, in particular through the activities of the Parliamentary Assembly's Committee on Migration, Refugees and Demography, which has, for example, undertaken fact-finding missions to situations of internal displacement and recommended respect for the Principles. In September 2001, the Committee, together with the Representative, OHCHR and the Brookings Project, jointly convened a seminar on internal displacement and application of the Guiding Principles in Europe. As a follow-up to this meeting, the Committee has appointed a rapporteur on internal displacement and is preparing a report containing recommendations to Council of Europe member States, for consideration by the Assembly.

34. In 2000, a regional conference on internal displacement in Asia was convened in Bangkok, hosted by Forum Asia and the University of Chulalongkorn, and co-sponsored by the Office of the United Nations High Commissioner for Refugees (UNHCR), the Brookings Project, NRC and the U.S. Committee for Refugees. Participants, who came from 16 Asian countries and included representatives of national human rights commissions, academic and research institutions, local, regional and international NGOs, the media and international organizations, agreed on the importance of disseminating and promoting the Principles in the region, urged their observance by Governments and all relevant actors, and recommended that the national human rights commission focus attention on internal displacement and promote application of the Principles.

35. From 30 August to 2 September 2003, the Representative co-sponsored the first regional conference on internal displacement of the Intergovernmental Authority on Development (IGAD). Working with his co-sponsors, the IGAD organization and the OCHA IDP Unit, and with the Government of the Sudan as host, the Representative brought together nearly 100 participants, including governmental delegations from each IGAD member State (i.e. Djibouti, Eritrea,

Ethiopia, Kenya, Somalia, the Sudan and Uganda), local and international NGOs, United Nations and other international agencies, as well as regional and international experts, for an expert meeting to examine the situation of internal displacement in IGAD member States, the regional dynamics contributing to the problems, and possibilities for concerted regional action. The conclusions and recommendations of this meeting were then considered and adopted at a ministerial-level meeting, which issued the "Khartoum Declaration on Internally Displaced Persons in the IGAD Sub-Region". The experts and the ministers alike noted that the Guiding Principles were a "useful tool" in developing national policies on internal displacement, inasmuch as they "compile the existing international law related to internal displacement". They also called for the creation of a dedicated unit within the IGAD secretariat to address issues of forced displacement, including by collecting data on displacement in the subregion, disseminating the Guiding Principles, providing technical assistance to member States in developing and monitoring policies on internal displacement, and exploring further means of subregional cooperation on forced displacement. The Ministerial Declaration further established 2 September of each year as "IGAD IDP Day".[6]

36. Plans are also being discussed for a Latin American regional conference to be hosted by Mexico. The Representative also hopes to see other regional bodies such as the Association of South-East Asian Nations, the League of Arab States, the South Asian Association for Regional Cooperation and the Southern African Development Community consider ways to integrate internal displacement and the Principles in their work.

The international level

37. Through the years, many States have spoken in support of the Guiding Principles at the Commission, the General Assembly, the Economic and Social Council and other forums. Most recently, at the fifty-ninth session of the Commission, delegates from Algeria, Austria, Croatia, Eritrea, Mexico, Norway (on behalf also of Denmark, Finland, Iceland and Sweden) and Switzerland all made positive reference to the Guiding Principles. On the other hand, at times, some States have raised questions about the process by which the Guiding Principles were developed and have pointed out that they are not binding law. To address these concerns, over the past two years, the Representative has intensified dialogue with Governments about the Guiding Principles. For example, he has met with government officials in Cairo and Khartoum to discuss the Principles. In addition, a series of constructive meetings have been held in New York, hosted by the Government of Switzerland and the Emergency Relief Coordinator. As a result, a number of Governments that had earlier voiced concerns have expressed their appreciation for these discussions and have explained that their objective was indeed aimed at broadening the scope of support for the Principles. Further, consultations are under way with the Permanent Representative of Switzerland to the United Nations and a number of delegations, including the Government of Egypt, to organize a seminar to discuss the Guiding Principles and their application. In the meantime, the Representative continues to dialogue about the Guiding Principles and their use with Governments in New York and Geneva, at regional seminars and during his country missions.

B. Fostering effective institutional arrangements

38. The Representative has also been charged with making suggestions and recommendations on the international institutional response to internal displacement. While recognizing that States ultimately have the responsibility to assist and protect the internally displaced, the Representative has asserted that when States are either unwilling or unable to do so, the international community has a key role to play. In this context, the Representative has stressed the notion of sovereignty as responsibility, a concept enjoying increasing acceptance in the international community. The role of the international community can take different forms. Indeed, the various options originally presented by the Representative include the creation of a special international agency for the internally displaced, the designation of an existing agency to assume full responsibility for the internally displaced, and collaboration among the various relevant agencies and offices.

39. So far, the last option has been the one preferred by the international community. The number of United Nations offices and agencies having a role to play in protecting and assisting internally displaced persons has steadily increased since the Representative began his work and now includes: the Food and Agriculture Organization of the United Nations (FAO), the International Labour Organization (ILO), OHCHR, the United Nations Development Programme (UNDP), UNHCR, UNICEF, the World Food Programme (WFP), the World Health Organization (WHO) and, outside the United Nations, the International Committee of the Red Cross (ICRC) and the other components of the International Red Cross and Red Crescent Movement, IOM and numerous NGOs. While the involvement of these and other organizations with the plight of internally displaced persons certainly has been a welcome development, it has also brought significant challenges of coordination.

40. It should be recalled that, in 1990, the General Assembly assigned to United Nations Resident Coordinators the responsibility for coordinating assistance to internally displaced persons in the field. In 1991, the Assembly created the post of Emergency Relief Coordinator (ERC) to coordinate the systemwide response to emergency situations, and the following year established the Inter-Agency Standing Committee to support the work of ERC. IASC provides a forum that brings together the major United Nations and non-United Nations humanitarian, human rights and development partners, NGO umbrella groups and the Red Cross/Red Crescent Movement. Its primary role is to formulate policy to ensure coordinated and effective humanitarian responses to complex emergencies and natural disasters.

41. Although an Inter-Agency Task Force on Internally Displaced Persons, in which the Representative participated in the mid-1990s, initially existed within IASC, it largely proved to be more of an information-sharing forum rather than a mechanism for strategic coordination and response to internal displacement. It therefore remained true, as the Secretary-General highlighted in his July 1997 programme for United Nations reform, that providing protection and assistance to internally displaced persons was a humanitarian challenge that continued to fall into the gaps of the existing mandates of the various agencies. To address these gaps, the Secretary-General requested ERC to ensure that the protection and assistance needs of internally displaced persons are effectively addressed by the different agencies. As a result, in line with the recommendations made earlier by the Representative, ERC called upon all IASC members to designate a focal point on internal displacement. IASC, meanwhile, extended to the Representative a standing

invitation to IASC and its subsidiary bodies, and its Working Group made the issue of internally displaced persons a standing item on its agenda. These were important steps in facilitating inter-agency coordination on internal displacement, leading to achievements in a number of areas.

42. One of these steps was the creation of a system of information collection on internal displacement. In his early reports to the Commission, the Representative had repeatedly raised, and the Commission had reiterated, the need for a comprehensive system of gathering and disseminating data on internally displaced persons as a first step towards addressing their needs. In 1998, the IASC Working Group decided to "outsource" to the Norwegian Refugee Council responsibility for developing a comprehensive database on internal displacement. The database subsequently created and managed by the NRC Global IDP Project (www.idpproject.org) has proven to be an invaluable resource tool, which also serves to raise awareness and facilitate understanding of the conditions of internally displaced persons in more than 50 countries worldwide.

43. As the Representative has repeatedly underscored in his reports and statements, protection has consistently been the weakest element in the international response. It was determined that part of the problem was the absence within the collaborative approach of a common understanding of protection. To address this conceptual gap, in 1999, the Representative, together with ERC and OHCHR, produced a joint paper spelling out the meaning of protection for internally displaced persons. This paper then became the basis for an IASC policy paper on the issue, adopted by the heads of agencies in December 1999 and subsequently published by OCHA as a booklet for wide dissemination. To be sure, the adoption of this inter-agency policy on the protection of internally displaced persons was a significant step forward, given the historic reluctance of humanitarian and development agencies to address protection issues. By articulating the protection needs of internally displaced persons and the individual as well as shared responsibilities for addressing these needs, international agencies committed themselves to assume greater accountability for addressing such concerns. However, a policy paper alone hardly proved sufficient in addressing the protection needs of the displaced.

44. Another long-standing concern identified by the Representative and echoed by the Commission has been the absence of a funding mechanism for programmes to address the specific needs of internally displaced persons. In 2000, with the support of UNICEF and the Brookings Project on Internal Displacement, the Representative commissioned a study on the degree to which the Consolidated Appeals Process (CAP) for that year addressed issues of internal displacement.[7] The study found that while most of the appeals acknowledged the special vulnerabilities of the internally displaced and many project activities took these into account, there remained considerable scope to enhance United Nations country teams' attention and response to specific situations, especially in the area of protection. The IASC Working Group welcomed this report and disseminated it to country teams so that they could take its findings and recommendations into account in preparing future appeals. The Representative continues to be involved in monitoring and promoting greater resource mobilization to address the plight of internally displaced persons, including through his participation in the annual global launches of CAP.

45. Of course, the real test of the adequacy of these and other measures undertaken to enhance the international response is in their impact on improving the conditions of internally displaced persons on the ground. Notwithstanding the progress made, the international response has continued to suffer from significant gaps, the severity of which has come to the attention of the Security Council. In January 2000 the Council expressed "grave concern that alarmingly high numbers of internally displaced persons do not receive sufficient protection and assistance" (S/PRST/2000/1). The diffusion of responsibility among various agencies, some Governments pointed out, had created a system where accountability and leadership were sorely lacking, leading to renewed calls for designating a single agency with responsibility for the internally displaced. The situation in Angola, one of the world's most serious crises of internal displacement, was cited as epitomizing a system of collaboration that was failing the internally displaced.

46. While some Governments and organizations suggested that significant institutional reform was needed to address these concerns, the United Nations response was to continue the existing approach of collaboration among the various agencies but to commit to improving its implementation. As a first step, IASC issued to humanitarian/resident coordinators, as well as the head of any designated "lead agency" in a country, "Supplementary Guidance" on their responsibilities for internally displaced persons. While this document simply restated responsibilities that had existed for almost a decade, it called attention to this responsibility (of which coordinators in several cases had indicated they were unaware) and elaborated on what it entails. For instance, it includes ensuring that not only assistance but also protection needs are effectively addressed as well as impressing upon national and local authorities their primary responsibility to protect and assist the internally displaced in conformity with the Guiding Principles.

47. In a second step, in September 2000, IASC established a Senior Inter-Agency Network on Internal Displacement, chaired by a Special Coordinator on Internal Displacement, Dennis McNamara, appointed within OCHA, charged with undertaking a series of country reviews and, on this basis, making recommendations for an improved inter-agency response. The office of the Representative participated in the work of the Senior Network, including in a number of its country missions, which consistently found that attention to protection needs remained the most critical shortcoming in the international response.

48. Finally, upon the recommendation of the Special Coordinator on Internal Displacement and with the approval of ERC and the Secretary-General, in January 2002 an IDP Unit was established within OCHA, with additional staff seconded by IASC agencies and NGOs as well as the Representative (with the support of the Government of Austria). As stated in the IASC WG-endorsed terms of reference, the main role of the Unit is to assist ERC in discharging his function to coordinate an effective response to the needs of internally displaced people worldwide. To this end, the Unit provides support to field response in IDP crises as implemented by IASC members and OCHA, under the leadership of resident/humanitarian coordinators. In its work plans, the Unit has pursued activities aimed at promoting systemwide improvements in the response to internal displacement and providing targeted support to specific country situations. Using the Guiding Principles and the policy guidelines developed by IASC as the overall normative and institutional frameworks, the Unit seeks to rely on its inter-agency nature to ensure coordination among operational partners and enhance the response of the international

community on behalf of IDPs. An evaluation of the Unit is currently being carried out.

49. The Representative strongly supported the establishment of the Unit, having pointed out over the years the importance of having a central coordinating mechanism to guide the collaborative approach. In April 2002, the Representative and ERC signed a memorandum of understanding spelling out areas and modalities of cooperation between the Representative and the Unit. These include: developing strategies for the promotion, dissemination and the application of the Guiding Principles; coordinating field visits to maximize impact, building upon one another's findings and ensuring meaningful follow-up; collaborating in the development of policy and action-oriented research; undertaking joint activities, such as seminars, publications and other initiatives, to identify best practices in the application of the Principles; and conducting joint advocacy.

50. One important joint initiative currently being undertaken by the Unit and the Brookings-SAIS Project is a systematic survey of the inter-agency response to protection needs in the field. A team of two have already visited nine countries, examined existing protection policies and strategies and identified best practices as well as steps that could be taken to improve the response. Their findings and recommendations should be published in 2003.

51. These positive developments notwithstanding, there is still widespread concern about the lack of a fully mandated agency or organization for the internally displaced. The collaborative approach depends on the effectiveness of coordination and the extent to which the operational agencies are committed to the enhancement and effectiveness of their collective capacity. It is also important that enhanced and effective collaboration be reflected at all levels, from the headquarters to the field, the ultimate objective being to make a difference in meeting the needs of the internally displaced. Viewed from this perspective, the system now in place still has some way to go.

52. Field-level observation reveals that humanitarian and development agencies in countries with internal displacement problems, where the issue is considered sensitive and where international involvement may be suspected by Governments as a threat to their national sovereignty, sometimes still tend to avoid engaging the national authorities on behalf of the internally displaced. In some instances, even when government policies begin to change, as the Representative found the case to be in Turkey, Mexico and the Philippines, the response of the agencies tends to lag behind.

53. The protection survey and the evaluation of the IDP Unit, which are currently under way, offer an opportunity for examining the extent to which the protection and assistance needs of the internally displaced are being met. It is, however, safe to say that while considerable progress has been made in providing protection and assistance, these needs are still not being fully met.

C. Country missions

54. Country missions continue to constitute a key component of the work of the Representative. Undertaking such missions provides an opportunity to study individual situations of internal displacement, to assess the effectiveness and

efficiency of national and international responses in addressing their protection, assistance and development needs and, most importantly, to engage in a constructive and solutions-oriented dialogue with the national authorities and other actors. The missions also provide an opportunity for the Representative to discuss the Guiding Principles with Governments, intergovernmental organizations and non-governmental organizations, something which both the Commission on Human Rights and the General Assembly have welcomed and encouraged.

55. Since his appointment in 1992, the Representative has undertaken 28 missions, to the following countries: Angola, Armenia, Azerbaijan, Burundi (twice), Colombia (twice), El Salvador, Georgia, Indonesia, Mexico, Mozambique, Peru, Philippines, Rwanda, Russian Federation (twice), Somalia, Sri Lanka, Sudan (three times), Tajikistan, Timor-Leste (then East Timor), Turkey, Uganda and the countries of the former Yugoslavia.

56. Eight of these visits — to Indonesia, Mexico, the Philippines, the Russian Federation, the Sudan (twice), Turkey and Uganda — took place since the last report of the Representative to the fifty-sixth session of the General Assembly, and are reported on in detail in the following reports: Sudan (E/CN.4/2002/95/Add.1 and E/CN.4/2003/86/Add.1 and Corr.1); Indonesia (E/CN.4/2002/95/Add.2 and Add.3); Turkey (E/CN.4/2003/86/Add.2), Mexico (E/CN.4/2003/86/Add.3); and the Philippines (E/CN.4/2003/86/Add.4). Reports on the most recent missions to the Russian Federation and to Uganda are still under preparation and will be submitted to the next session of the Commission on Human Rights.

57. In the cases of Mexico and Turkey, the Representative made specific recommendations encouraging much greater involvement on the part of the United Nations country team with the internally displaced, given the significant changes that had occurred in both countries. In the Sudan and the Philippines, the Representative underscored the need for international support to help those displaced persons who were beginning to return, while at the same time focusing attention on the protection and assistance needs of those still displaced. In the Sudan the Representative also promoted the development of a national policy on IDPs. With regard to Indonesia, the Representative presented specific recommendations to address the root causes of displacement, and to ensure that the Government's new policy is translated into comprehensive and well-coordinated programmes of assistance and protection, with particular focus on durable solutions. Other recommendations identified included calls for more concerted efforts by the Government to address the needs of internally displaced persons, in particular the establishment of effective national institutional arrangements; the creation of an information system; measures to address the specific needs of women and children; the enhancement of safety and protection; steps to rebuild trust and solidarity among different ethnic and religious groups; an expanded role for international organizations and NGOs; and the wide dissemination and application of the Guiding Principles.

58. In August 2002, the Representative received an invitation to visit the Russian Federation, including the Republics of Ingushetia and Chechnya, in response to his request of 22 March 2000 to undertake a second official mission to the country (he had visited Moscow in 1992). At the request of the Government, the Representative's mission was to be undertaken jointly with the Special Rapporteur on violence against women. Scheduled to occur in early September, the mission was

postponed by the Government to the end of the month when it was further postponed, owing to the security situation in the region. The Representative is pleased to report that in August 2003 the Government of the Russian Federation confirmed that a visit by the Representative could take place in September 2003, and he subsequently visited the country from 7 to 13 September. The Representative is also pleased to note that, at the invitation of the Government of Uganda, he visited the country in August 2003. Reports on these two missions will be prepared and presented to the Commission on Human Rights at its next session in 2004.

D. Research areas

59. The fourth pillar of the Representative's mandate has been to undertake and promote research on the global crisis of internal displacement, its causes, consequences and solutions. He has done so primarily with the support of the joint Brookings Institution-Johns Hopkins School of Advanced International Studies (SAIS) Project on Internal Displacement, an independent research institution which he co-directs together with Roberta Cohen, a Senior Fellow at the Brookings Institution, and a small but highly motivated and dedicated staff, which has supported the mandate not only with its research agenda, but in all its activities. Over the course of the past decade, the Project has built up an extensive body of research relevant to the various areas of work of the mandate.

60. Alongside the legal and institutional reviews described above, the Representative undertook the first in-depth studies of internal displacement, namely: *Protecting the Dispossessed* (Brookings: 1993); *Masses in Flight: The Global Crisis of Internal Displacement* (Brookings: 1998) co-authored with Roberta Cohen; *The Forsaken People: Case Studies of the Internally Displaced* (Brookings: 1998) co-edited with Roberta Cohen. These last two studies were undertaken at the suggestion of Secretary-General Boutros Boutros-Ghali. The current Secretary-General, Kofi Annan, then suggested the publication of the popularized version, *Exodus Within Borders* (Brookings: 1999), authored by David A. Korn. These publications provide a global overview of the crisis of internal displacement, individual country case studies, an analysis of the existing legal and institutional frameworks, an examination of the role of regional organizations and NGOs, and strategies and recommendations for improved response at all levels. With the publication of these studies, the Representative considers that the major task of defining the basic contours and characteristics of the problem of internal displacement as well as of existing legal and institutional frameworks for response is largely complete.

61. Attention has recently turned to the study of particular aspects of the problem of internal displacement and the search for solutions. In this connection, the Project has published papers by distinguished researchers as well as by its own staff on a number of subjects, including: development strategies for internally displaced women; the relief to development gap; the issue of political participation; trends in the Americas; CAP; the response of the United States Government and European Governments to internal displacement; the role of national human rights institutions; a selected bibliography on internal displacement; recent commentaries on the Guiding Principles; the situation of internally displaced persons in Iraq; and development-induced displacement.

62. In addition, at the request of the ERC, the office of the Representative has undertaken research into the subject of when displacement ends. A special issue of the *Forced Migration Review* dealing with this issue and co-guest edited by the Project and Georgetown University's Institute for the Study of Forced Migration was published in 2003.

63. Additional research is under way on a variety of topics including: an analysis of national responsibility; the role of non-State actors; the role of peacekeepers; the development of a comprehensive protection regime for internally displaced persons and refugees; a manual for internally displaced persons on human rights mechanisms; an examination of the standing in international law of the norms described in the Guiding Principles; and a compendium of relevant university and training course syllabi.

64. In addition, with his affiliation as of June 2002 with Johns Hopkins University's School of Advanced International Studies (SAIS), the Representative has begun to establish a Center for Displacement Studies. The Center will develop courses, support scholarships and foster further academic research on the causes, consequences and solutions of displacement. In spring 2003, the Representative inaugurated the Center's activities by teaching a course on internal displacement to graduate students at SAIS. Longer term, it is envisaged that visiting scholars will be brought to the Center to enrich its curriculum and research activities.

III. The challenges ahead

65. In December 2002, in Vienna, the Governments of Austria and Norway, in collaboration with the Brookings-SAIS Project, hosted an International Symposium on the Mandate of the Representative. The symposium was structured around the theme "Taking stock and charting the future". The principal objectives of the meeting were to assess the work and challenges of the mandate as well as the progress made by the international community and to explore future strategies at the international, regional, national and local levels for promoting enhanced responses to the global crisis of internal displacement. Participants included representatives of United Nations agencies and offices, as well as other international organizations concerned with internal displacement. The main conclusion of the meeting was summed up by Professor Thomas Weiss in his background study which, in envisioning the challenges ahead, noted that, "The ... option — which appears reasonable over the next half decade because the others are highly unlikely or undesirable — is to make the most of the existing approach".[8] This realistic and programmatic assessment is not an expression of complacency, but a challenge to make the system more productive and effective.

66. Since the mandate of the Representative was created in 1992, significant progress has been made in the areas of norm-setting, institutional arrangements and operational responses to the needs of the internally displaced. This report has focused considerably on the Guiding Principles on Internal Displacement because that is the area in which most progress has been made. The Principles are now widely accepted as a standard and a useful tool for addressing the protection and assistance needs of the internally displaced. The collaborative approach is also in place as the preferred institutional response at this time to the global crisis of internal displacement. In addition, the Representative's country missions have

succeeded in establishing a pattern of constructive dialogue with Governments and other pertinent actors on behalf of the internally displaced. Furthermore, a policy-oriented research agenda on various aspects of the displacement crisis has become well established through the Brookings-SAIS Project on Internal Displacement and the recently founded SAIS Center for Displacement Studies.

67. And yet, there remains a significant gap between the postulated standards, institutional structures and operational performance, on the one hand, and the still compelling needs of the displaced populations for protection and assistance, on the other hand. How wide this gap is may be a matter of conjecture, but that it exists is incontrovertible. Perhaps the challenge for the future may be a more precise assessment of the degree to which the international community has in fact succeeded or failed to respond to the global crisis of internal displacement, the gaps that exist in meeting the protection and assistance needs of the internally displaced, and what needs to be done to bridge that gap. This means that along with continuing to do what is being done and to improve upon it, there is need for a more thorough appraisal of the system and its operations to determine the extent to which it can be made to be more effective in providing a comprehensive system of protection and assistance to the internally displaced of the world.

Notes

[1] Roberta Cohen, Walter Kälin and Erin Mooney (eds.), *The Guiding Principles on Internal Displacement and the Law of the South Caucasus*, Studies in Transnational Legal Policy No. 34, The American Society of International Law, 2003.

[2] Mario Gomez, *National Human Rights Commissions and Internally Displaced Persons, Illustrated by the Sri Lankan Experience*, Brookings-SAIS Project on Internal Displacement, July 2002.

[3] *National Human Rights Institutions — Best Practice*, Commonwealth Secretariat, 2001, p. 33.

[4] *Follow-Up Conference to the International Migration Policy Conference for East Africa, the Horn of Africa and the Great Lakes Region: Summary Report and Conclusions*, International Migration Policy Programme, June 2003.

[5] Inter-American Commission on Human Rights, Third Report on the Human Rights Situation in Colombia, OEA/Ser.L/V/II.102, Doc. 9 rev.1, chap. VI, pp. 10, 26, February 1999. See also Inter-American Commission on Human Rights, Fifth Report on the Situation of Human Rights in Guatemala, OEA/Ser.L/V/II.111, Doc. 21 rev., chap. XIV, 12, 6 April 2001.

[6] The ministerial declaration can be found at http://www.brook.edu/fp/projects/idp/conferences/DecKhartoum.pdf and the experts recommendations can be found at http://www.brook.edu/dybdocroot/fp/projects/idp/conferences/IGADREC.pdf.

[7] James Kunder, *The Consolidated Appeals and IDPs: The Degree to Which UN Consolidated Inter-Agency Appeals for the Year 2000 Support Internally Displaced Populations*, Brookings Project on Internal Displacement and UNICEF, August 2000.

[8] "International Efforts for IDPs after a Decade: What Next?" *Taking Stock and Charting the Future: International Symposium on the Mandate of the Representative of the Secretary-General on Internally Displaced Persons*, Brookings-SAIS Project on Internal Displacement, December 2003.